IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.603 OF 2006

Pandurang Shankar Hiwarkar ...Appellant

Vs.

Vishwas Dayanand Paroolkar ...Respondent

Mr.Vipin Kamdi i/b Mr.P.V.Wichare & Co. for the Appellant
Mr.V.A.Shastri for the Respondent.

CORAM: A.S.OKA, J.
DATED: MARCH 29,2006.

P.C.:

1. Admit. Advocate for the Respondent waives service. Taken up for hearing forthwith.

2. After arguing the Appeal for sometime, the Advocates appearing for the parties stated that instead of keeping the Appeal pending in this Court for final disposal, by setting aside the impugned Judgment and Decree, the suit may be remanded to the Trial Court with permission to the Respondent-Defendant to file written statement within a limited period. The Advocate for the Appellant submitted that a time bound programme may be made for disposal of the suit.

3. In view of this submission, I pass the following order :

i) The impugned Judgment and Decree is quashed and set aside.

ii) Special Civil Suit No.443 of 2002 is restored to file.

iii) Both the parties are directed to appear before the learned Trial Judge on 7th June 2006 at 11.00 a.m.. It is made clear that the Trial Court will not serve a fresh notice or summons to both the parties. The Respondent is permitted to file his written statement on or before 7th July 2006. No further time will be granted for filing written statement under any circumstances.

iv) Both the parties will be entitled to lead evidence. The Appellant is entitled to lead further evidence in addition to evidence which is already on record. The learned Trial Judge will decide the suit as expeditiously as possible and preferably on or before 30th April 2007.

v) All contentions of the parties on merits of the suit are kept open.

vi) Parties and the concerned Court to an upon an authenticated copy of this order.

Judge.